

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

THE ECLIPSE GROUP LLP,

Plaintiff,

Case No.: 15cv1411-JLS (BLM)

V.

TARGET CORPORATION, et al.,

ORDER GRANTING INTERVENOR'S EX PARTE MOTION TO EXTEND CERTAIN DATES

[ECF NO. 117]

Defendants.

Currently before the Court is Intervenor's April 19, 2017 *ex parte* motion to extend certain deadlines [ECF No. 117-1 ("Mot.")] and Defendants' opposition to the motion [ECF No. 118 ("Oppo.")].

Intervenor seeks to continue the April 24, 2017 deadline for expert reports to May 22, 2017, the May 9, 2017 deadline for contradictory or rebuttal evidence to June 5, 2017, the May 30, 2017 deadline for completing expert discovery to June 19, 2017, and the July 19, 2017 Mandatory Settlement Conference ("MSC") to September 13, 2017. Mot. at 2, 4. In support, Intervenor argues that he requires key information from Defendants "which is critical to the expert's analysis and valuation of damages, and which so far Defendants have refused to produce." Id. at 2. Intervenor also argues that his expert report would be incomplete without the missing discovery and that there would be no prejudice to Defendants. Id. at 2-3. In further support, Intervenor states that he has been occupied for the last two weeks preparing summary judgment briefing in a copyright case in Los Angeles and that supplemental expert reports do

1 not make sense. Id. at 2-3. With respect to the MSC, Intervenor states that he is scheduled to
2 begin a jury trial on July 11, 2017 which will conflict with the MSC and that he has a vacation
3 planned for August 2017. Id. at 3-4.

4 On April 21, 2017, Defendants filed an opposition to Intervenor's motion.¹ Oppo.
5 Defendants contend that Intervenor has already filed a motion seeking this relief that was
6 previously denied by the Court and that the instant motion "does not substantially address the
7 shortcomings of his prior *ex parte* application." Id. at 2. Defendants do not believe that the
8 motion should be granted based upon Intervenor's pending motion to compel [see ECF No. 83]
9 because Intervenor "is unlikely to obtain any relief on his motion[s]." Id. at 3. Defendants note
10 that Intervenor has failed to specifically state which documents or information are relevant to
11 his expert reports or to disclose the actual document requests upon which he bases his request
12 for a continuance. Id. Defendants also contend that Intervenor has failed to explain how the
13 information he seeks is necessary for his expert reports or why supplemental reports would
14 "make no sense." Id. at 6-7. Defendants further contend that Intervenor should have included
15 a declaration from his expert with his request for relief and that Intervenor himself is to blame
16 for any delays in the rulings on his motions to compel for failing to comply with the Court's
17 orders. Id. at 7. Finally, Defendants argue that Intervenor's current work load in other matters
18 does not support a continuation of the expert deadlines. Id. Defendants do not oppose
19 Intervenor's request to continue the Mandatory Settlement Conference, but note that it may be
20 premature to continue the conference as Intervenor's case "may be decided on summary
21 judgment or settle before trial." Id. at 8.

22 Intervenor's motion to continue the deadlines for expert reports, contradictory or rebuttal
23 evidence, completing expert discovery, and the MSC is **GRANTED**. The Court notes that both
24 Intervenor and Defendants have filed lengthy discovery motions and are vigorously opposing
25 each other's motions. See ECF Nos. 83, 88, 91, 97-98, 100-101, 103, 105, 108-126. Given the
26 inability of the parties to conduct discovery in a reasonable manner, the Court finds it necessary

28¹ Intervenor states that Plaintiff "agreed to the relief sought." Mot. at 2 n1.

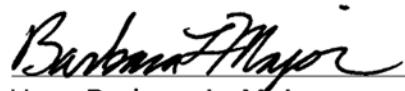
1 to continue the remaining dates as follows:

		<u>Current Deadline</u>	<u>New Deadline</u>
3	Expert Reports	April 24, 2017	July 28, 2017
4	Supplemental Disclosures	May 9, 2017	August 18, 2017
5	Expert Discovery	May 30, 2017	September 22, 2017
6	Mandatory Settlement Conference ("MSC")	July 19, 2016 at 9:30 a.m.	December 4, 2017 at 1:30 p.m.
8	MSC Briefs	July 10, 2017	November 27, 2017
9	Pretrial Motion Filing	June 20, 2017	October 20, 2017
10	Pretrial Disclosure	September 28, 2017	January 18, 2018
11	Memoranda of Contentions of Fact and Law	September 28, 2017	January 18, 2018
12	L.R. 16.1(f)(4) Meeting	October 5, 2017	January 25, 2018
13	Exchange Proposed Pretrial Order	October 12, 2017	February 1, 2018
14	Lodge Proposed Final Pretrial Conference Order	October 19, 2017	February 8, 2018
15	Final Pretrial Conference	October 26, 2017 at 1:30 p.m.	February 15, 2018 at 1:30 p.m.

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18 All guidelines and requirements remain as previously set. See ECF No. 68.

19 **IT IS SO ORDERED.**

20 Dated: 5/23/2017


21 Hon. Barbara L. Major
United States Magistrate Judge